

SMYRNA DE. 19977

Phone#: 302-653-9261

**INCIDENT REPORT**

<b>Group#:</b> <u>N/A</u>	<b>Type:</b> <u>Inmate Involved</u>	<b>Incident Date:</b> <u>12/16/2004</u>	<b>Time:</b> <u>00:05</u>	<b>Confidential:</b> <u>No</u>
<b>Facility:</b> <u>DCC Delaware Correctional Center</u>		<b>Followup Required:</b> <u>Yes</u>		
<b>Incident Location:</b> <u>D/INFIRMARY</u>				
<b>Location Description:</b> <u>D INFIRMARY - CELL D 191</u>				
<b>Violated Conditions:</b>				
<b>Description of Incident:</b> I C/O ERNEST EBWELLE RELIEVED SGT. BURMAN AND C/O VIOLET DUNN AT APPROXIMATELY 0001 DECEMBER 16, 2004. I WAS PROPERLY BRIEFED AND TOLD THAT THE NIGHT WAS PRETTY QUITE WITH NO INCIDENT. AT APPROXIMATELY 0005, I C/O ERNEST EBWELLE STARTED CONDUCTING HEAD COUNT OF INFIRMARY HOUSING UNIT. WHILE IN THE PROCESS OF COUNTING, INMATE LINDSEY GERRON SBI # 326202 HOUSED IN INFIRMARY CELL D-180 REPEATED YELLED MY NAME AND SAID I SHOULD COME QUICKLY AND CHECK ON INMATE BRAITHWAITE KEVIN. I RAN AT BRAITHWAITE CELL DOOR AND FOUND HIM CHOKING, COUGHING, AND STRUGGLING TO WIPE HIS EYES AND FACE. I ASKED INMATE BRAITHWAITE WHAT IS WRONG WITH HIM AND HE SAID HE HAS BEEN SPRAYED. AS I WENT CLOSER TO HIS CELL DOOR, I SMELLED PEPPER SPRAY. I NOTIFIED MEDICAL STAFF - NURSE JAMILA MCKENZIE AND CALLED PRIMARY CONTROL TO PAGE MY AREA LIEUTENANT TO COME TO INFIRMARY AS SOON AS POSSIBLE. WITHIN SECONDS, LT. WALLACH CALLED ME ON THE PHONE AND I TOLD HIM WHAT THE ISSUE WAS. WITHIN FIVE MINUTES LT. WALLACH ARRIVES IN THE INFIRMARY TOGETHER WITH UNIT 26 C/O D. STEVENSON. INMATE BRAITHWAITE WAS THEN CUFFED AND PLACED IN THE SHOWER TO CLEAN HIMSELF UP. CAREFUL EXAMINATION OF HIS CELL REVEALS THAT INMATE BRAITHWAITE WAS ACTUALLY SPRAYED AS RESIDUES OF THE PEPPER SPRAY COULD VISIBLY BE SEEN ON HIS CELL WALL UNDER THE INTERCOM, ALSO A LARGE AMOUNT OF THE RESIDUE COULD BE SEEN ON THE UPPER PART OF HIS MATTRESS, AROUND THE AREA WHERE HIS HEAD WOULD BE POSITIONED WHEN SLEEPING. INMATE BRAITHWAITE'S CELL (D -191) WAS SECURED, PENDING INVESTIGATION/CLEANING. INMATE BRAITHWAITE WAS TRANSFERRED TO CELL D-199 WITHOUT ANY FURTHER INCIDENCE. END OF REPORT. I RECEIVED NO BRIEFING BY PREVIOUS SHIFT OF PEPPER SPAY USE.				
<b>Injured Persons</b>		<b>Hospitalized</b>	<b>Nature Of Injuries</b>	
<u>N/A</u>		<u>N/A</u>	<u>N/A</u>	
<b>Evidence Type:</b> <u>PEPPER SPRAY RESIDUE</u>		<b>Date Collected:</b> <u>12/16/2004</u>		
<b>Discovered By:</b> <u>C/O Ebwelle</u>		<b>Secured By:</b> <u>N/A</u>		
<b>Type of Force Used:</b> <input type="checkbox"/> PHYSICAL <input type="checkbox"/> CHEMICAL <input type="checkbox"/> STUN <input type="checkbox"/> OTHER <input type="checkbox"/> CAPSTUN <input checked="" type="checkbox"/> NONE				
<b>Restraints Used:</b> <u>N/A</u>				
<b>Immediate Action Taken:</b> <u>INCIDENT REPORT WRITTEN</u>				
<b>Individuals Involved</b>				
<b>Person Code</b>	<b>Name</b>	<b>SBI#</b>	<b>Title</b>	
<u>Inmate</u>	<u>Kevin, Brathwaite C</u>	<u>00315294</u>	<u>N/A</u>	
<u>Inmate</u>	<u>Gerron, Lindsey M</u>	<u>00326202</u>	<u>N/A</u>	
<u>Witness</u>	<u>Jamila, McKenzie</u>	<u>N/A</u>	<u>Contractors - Medical</u>	
<u>Staff</u>	<u>Ernest, Ebwelle A</u>	<u>N/A</u>	<u>Correctional Officer</u>	
<u>Staff</u>	<u>Darren, Stevenson</u>	<u>N/A</u>	<u>Correctional Officer</u>	
<u>Staff</u>	<u>Edward, Wallach</u>	<u>N/A</u>	<u>Staff Lt./Lt</u>	
<b>Reporting Officer:</b> <u>Ebwelle, Ernest A (Correctional Officer)</u>		<b>Entered By:</b> <u>Ebwelle, Ernest A (Correctional Officer)</u>		
<b>Approval Information</b>				
<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved <b>Date:</b> <u>12/16/2004</u> <b>Approved by:</b> <u>Carrothers, Jeffrey (Staff Lt./Lt)</u>				
<b>Comments:</b> <u>On call staff notified</u>				

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SMYRNA DE. 19971

Phone#: 302-653-9281

**INCIDENT REPORT**

<b>Group#:</b> 1319	<b>Type:</b> Inmate Involved	<b>Incident Date:</b> 12/16/2004	<b>Time:</b> 00:07	<b>Confidential:</b> No
<b>Facility:</b> DCC Delaware Correctional Center		<b>Followup Required:</b> No		
<b>Incident Location:</b> D/INFIRMARY				
<b>Location Description:</b> room 191				
<b>Violated Conditions:</b>				
<b>Description of Incident:</b>				
Advised by officer Ewell at 0006 that inmate/patient Brathwait was complaining he had just been sprayed with pepper spray. Upon arrival in the infirmiry discovered inmate with eyes closed and the disticnt smell of pepper spay. Inmate Brathwright told me he was asleep in room 191 and woke up caughing and could not open his eyes. Inmate was asked by me who sprayed you. Inmate said I dont know I was asleep. C/O Ewell tod me the 4-12 shift had just departed through the D building yard exit and he (Ewell) was coming around the corner about 0004h's doing his count when he heard yelling and pounding on cell doors. Inmate Brathwait was removed from cell and permitted to take a shower. Examination of cell showed pepper spay on inside door jam adjacent to the flat. Pepper was also heavily sprayed on the wall down to and including the mattress. I attempted to take photographs of the evidence but the digital camera batterys were almost dead and no replacment batteries were available. Cell sealed for possible examination by staff on 8 to 4 shift.				
<b>Injured Persons</b>		<b>Hospitalized</b>	<b>Nature Of Injuries</b>	
N/A		N/A	N/A	
<b>Evidence Type:</b> N/A		<b>Date Collected:</b> N/A		
<b>Discovered By :</b> N/A		<b>Secured By:</b> N/A		
<b>Type of Force Used:</b> <input type="checkbox"/> PHYSICAL <input type="checkbox"/> CHEMICAL <input type="checkbox"/> STUN <input type="checkbox"/> OTHER <input type="checkbox"/> CAPSTUN <input checked="" type="checkbox"/> NONE				
<b>Restraints Used :</b> N/A				
<b>Immediate Action Taken:</b>				
Incident report				
<b>Individuals Involved</b>				
<b>Person Code</b>	<b>Name</b>	<b>SBI#</b>	<b>Title</b>	
Staff	Edward, Wallach	N/A	Staff Lt./Lt	
Staff	Ernest, Ebwelle A	N/A	Correctional Officer	
Staff	Darren, Stevenson	N/A	Correctional Officer	
Inmate	Kevin, Brathwaite C	00315294	N/A	
<b>Reporting Officer:</b> Wallach, Edward (Staff Lt./Lt)		<b>Entered By:</b> Wallach, Edward (Staff Lt./Lt)		
<b>Approval Information</b>				
<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved <b>Date:</b> 12/16/2004 <b>Approved by:</b> Carrothers, Jeffrey (Staff Lt./Lt)				
<b>Comments:</b> On Call staff notified.				

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Smyrna Landing Road

SMYRNA DE, 19977

Phone#: 302-653-9261

**INCIDENT REPORT**

<b>Group#:</b> 1319	<b>Type:</b> FYI	<b>Incident Date:</b> 12/16/2004	<b>Time:</b> 00:15	<b>Confidential:</b> No
<b>Facility:</b> DCC Delaware Correctional Center		<b>Followup Required:</b> No		
<b>Incident Location:</b> D/INFIRMARY				
<b>Location Description:</b> room #191				
<b>Violated Conditions:</b>				
<b>Description of Incident:</b> on the above date and approximate time Lt. Wallach (unit 11) & C/O Stevenson (unit 26) responded to the infirmary. Upon arrival C/O Ebwelle notified Lt. Wallach that I/M Brathwaite stated that he was pepper sprayed while sleeping. C/O Ebwelle opened the flap to I/M Brathwaite cell and noticed the smell of capstun. I/M Brathwaite was cuffed and removed from cell #191. Lt. Wallach and myself (unit #26) entered the cell and noticed to the left of the room there was orange pepper spray residue on the door frame where the flap opened to the cell and on the wall and it trickled down, and residue onto the mattress where I/M Brathwaite was laying his head. I/M Brathwaite was teary and red eyed with a wash cloth on his face. I/M Brathwaite was secured in the shower. At this time I unit #26 noticed my capstun container felt empty and had Lt. Wallach double check the capstun container and he compared my capstun to his capstun and verified it was empty. I relieved C/O Collins at post 40 at approximately 2400 hrs. He did not mention any incidents where his capstun was used. On December 14, 2004 I (unit 26) upon relieving the 4x12 officer gave me a new can of pepper spray not foam type the aerosol spray. I then removed the safety tab from the container. From this point I/M Brathwaite was removed from the shower and secured in room #199 until room #191 is aired out and cleaned from pepper spray. Room #191 was secured. End of Report.				
<b>Injured Persons</b>		<b>Hospitalized</b>	<b>Nature Of Injuries</b>	
N/A		N/A	N/A	
<b>Evidence Type:</b> N/A		<b>Date Collected:</b> N/A		
<b>Discovered By:</b> N/A		<b>Secured By:</b> N/A		
<b>Type of Force Used:</b> [ ] PHYSICAL [ ] CHEMICAL [ ] STUN [ ] OTHER [ ] CAPSTUN [X] NONE				
<b>Restraints Used :</b> N/A				
<b>Immediate Action Taken:</b> N/A				
<b>Individuals Involved:</b>				
<b>Person Code</b>	<b>Name</b>	<b>SBI#</b>	<b>Title</b>	
Staff	Darren, Stevenson	N/A	Correctional Officer	
Staff	Edward, Wallach	N/A	Staff Lt./Lt	
Inmate	Kevin, Brathwaite C	00315294	N/A	
<b>Reporting Officer:</b> Stevenson, Darren (Correctional Officer)		<b>Entered By:</b> Stevenson, Darren (Correctional Officer)		
<b>Approval Information:</b>				
<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved <b>Date:</b> 12/16/2004 <b>Approved by:</b> Carrothers, Jeffrey (Staff Lt./Lt)				
<b>Comments:</b> Cell secures for investigation. On call staff notified.				

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SMYRNA DE. 19977

Phone#: 302-653-9261

**INCIDENT REPORT**

<b>Group#:</b> <u>N/A</u>	<b>Type:</b> <u>Inmate Involved</u>	<b>Incident Date:</b> <u>12/16/2004</u>	<b>Time:</b> <u>00:05</u>	<b>Confidential:</b> <u>No</u>
<b>Facility:</b> <u>DCC Delaware Correctional Center</u>		<b>Followup Required:</b> <u>No</u>		
<b>Incident Location:</b> <u>D/INFIRMARY</u>				
<b>Location Description:</b> <u>INFIRMARY D-191</u>				
<b>Violated Conditions:</b>				
<b>Description of Incident:</b> AT APPROX 0005, I/M KEVIN BRAITHWRAITE AND GERRON LINDSAY YELLED OUT FOR ASSISTANCE. I/M KEVIN BRAITHWRAITE YELLED OUT "THEY SPRAYED ME" WHILE RUBBING HIS EYES WITH A WET WASHCLOTH. I/M WEARING ONLY A PAIR OF WHITE BOXERS WITH UNKNOWN LIQUID NOTED TO RIGHT SHOULDER AND ARM. ORANGE COLOR RESIDUE NOTED TO LEFT SIDE OF DOOR FRAME, LEFT WALL ON & BENEATH INTERCOM, RIGHT SIDE OF MATTRESS AGAINST LEFT WALL, & LOWER AREA OF WALL BEHIND HEAD OF MATTRESS IN RM #191. I/M VERY AGITATED, COUGHING, AND YELLING OUT "I NEED A SHOWER!" REDNESS NOTED TO BOTH EYES. SECURITY AND STAFF MEMBERS COUGHING WHILE IN THE VICINITY OF I/M'S ROOM. C.O. EBWELL CALLED ON SITE SUPERVISOR. LT. WALLACH AND C.O. STEVENSON RESPONDED. I/M ALLOWED TO HAVE A SHOWER. I/M'S ROOM SHAKED DOWN BY SECURITY. I/M MOVED TO RM#199. NO COMPLAINTS OF PAIN VOICED. APPROPRIATE DOCUMENTATION COMPLETED.				
<b>Injured Persons</b>	<b>Hospitalized</b>	<b>Nature Of Injuries</b>		
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>		
<b>Evidence Type:</b> <u>ORANGE COLOR RESIDUE PRESENT IN ROOM IN MULT. AREAS</u>		<b>Date Collected:</b> <u>N/A</u>		
<b>Discovered By:</b> <u>N/A</u>		<b>Secured By:</b> <u>N/A</u>		
<b>Type of Force Used:</b> <input type="checkbox"/> PHYSICAL <input type="checkbox"/> CHEMICAL <input type="checkbox"/> STUN <input type="checkbox"/> OTHER <input checked="" type="checkbox"/> CAPSTUN <input checked="" type="checkbox"/> NONE				
<b>Restraints Used:</b> <u>N/A</u>				
<b>Immediate Action Taken:</b> <b>INCIDENT REPORT COMPLETED</b>				
<b>Individuals Involved</b>				
<b>Person Code</b>	<b>Name</b>	<b>SBI#</b>	<b>Title</b>	
Staff	Ernest, Ebwelle A	N/A	Correctional Officer	
Staff	Edward, Wallach	N/A	Staff Lt./Lt	
Staff	Darren, Stevenson	N/A	Correctional Officer	
Inmate	Kevin, Brathwaite C	00315294	N/A	
Inmate	Gerron, Lindsey M	00326202	N/A	
<b>Reporting Officer:</b> <u>Mckenzie, Jamilia (Correctional Officer)</u>		<b>Entered By:</b> <u>Ebwelle, Ernest A (Correctional Officer)</u>		
<b>Approval Information:</b>				
<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved <b>Date:</b> <u>12/16/2004</u> <b>Approved by:</b> <u>Carrothers, Jeffrey (Staff Lt./Lt)</u>				
<b>Comments:</b> <u>N/A</u>				

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GRIEVANCE

IA  
K.M.H.  
1/18/03

FORM #584

## GRIEVANCE FORM

1-4-05

FACILITY: D.C.C.DATE: 12-15-04GRIEVANT'S NAME: Kevin BrathwaiteSBI#: 315294CASE#: 10654TIME OF INCIDENT: Approx: 11:50 P.M.HOUSING UNIT: INFIRMARY

BRIEFLY STATE THE REASON FOR THIS GRIEVANCE. GIVE DATES AND NAMES OF OTHERS INVOLVED IN THE INCIDENT OR ANY WITNESSES.

ON the above time and date while being housed in the infirmary, cell #191 I was asleep in my bed AND some officers opened up my the flap on my door AND sprayed me in my face with mace. The Area Lt. AND the Medical dept. was notified.

ACTION REQUESTED BY GRIEVANT: That this matter be investigated by AN outside agency.

GRIEVANT'S SIGNATURE: [Signature]DATE: 12-19-04

WAS AN INFORMAL RESOLUTION ACCEPTED? ☐ (YES) ☐ (NO)

[Stamp]

(COMPLETE ONLY IF RESOLVED PRIOR TO HEARING)

GRIEVANT'S SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

IF UNRESOLVED, YOU ARE ENTITLED TO A HEARING BY THE RESIDENT GRIEVANCE COMMITTEE

cc: INSTITUTION FILE  
GRIEVANT

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RECEIVED

JAN 05 2005

Inmate Grievance Office

RECEIVED

DEC 29 2004

Inmate Grievance Office